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RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 000423

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FOR IO AND NEA FRONT OFFICES

E.O. 12958: DECL: 05/29/2016

TAGS: PREL PTER UNSC SY LE

SUBJECT: LEBANON TRIBUNAL: VOTE SCHEDULED FOR MAY 30

REF: USUN 411 AND PREVIOUS

Classified By: Ambassador Zalmay M. Khalilzad, per 1.4 (b) and (d).

¶11. (C) The UN Security Council discussed the draft resolution on the Special Tribunal for Lebanon for the second time during closed consultations on May 29. After P-3 PermReps explained the revisions made to the draft resolution in response to concerns raised during UNSC consultations on May 25, co-sponsors Belgium, Slovakia, and Italy expressed support for the draft text. Russian PR Churkin intervened five times to oppose the use of Chapter VII and to argue against the "absurdity" of the Council interposing itself in the place of the Lebanese parliament by effectively ratifying the UN-GOL tribunal agreement and statute for Lebanon. He questioned whether the structure of the resolution made clear that only operative paragraphs 1-3 fall under Chapter VII authority. Churkin also expressed hope that the resolution would not be put to a vote tomorrow during the meeting of G-8 foreign ministers. Qatar argued that the tribunal could only be established through a domestic Lebanese process and cautioned the co-sponsors against proceeding to a vote without the unanimous support of the Council. South Africa said its position remained unchanged from May 25 -- that it could not support the draft resolution -- and questioned the need for Chapter VII. Indonesia urged the co-sponsors to give the Lebanese more time to find a consensual solution without the "sword" of a sunrise clause stipulating automatic implementation of the resolution on a future date hanging over their heads.

¶12. (U) Following Council consultations, co-sponsors decided put the resolution "in blue" on May 29 for a vote on the afternoon of May 30. (Note: France argued to wait until the afternoon of May 30 because of a lunch meeting that day between French President Sarkozy and the Emir of Qatar, as well as to placate Russian concerns that the vote not conflict with the meeting of G-8 foreign ministers. End Note.). Co-sponsors agreed to make one cosmetic change to the resolution to make clear, in response to Russian concerns, that only operative paragraphs 1-3 (now 1a, 1b, and 1c) evoke the Council's Chapter VII authority.

¶13. (U) Begin text:

The Security Council,

Pp1 Recalling all its previous relevant resolutions, in particular resolutions 1595 (2005) of 7 April 2005, 1636 (2005) of 31 October 2005, 1644 (2005) of 15 December 2005, 1664 (2006) of 29 March 2006 and 1748 (2007) of 27 March 2007,

Pp2 Reaffirming its strongest condemnation of the 14 February 2005 terrorist bombings as well as other attacks in Lebanon

since October 2004,

Pp3 Reiterating its call for the strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon,

Pp4 Recalling the letter of the Prime Minister of Lebanon to the Secretary General of 13 December 2005 (S/2005/783) requesting inter alia the establishment of a tribunal of an international character to try all those who are found responsible for this terrorist crime, and the request by this Council for the Secretary-General to negotiate an agreement with the Government of Lebanon aimed at establishing such a Tribunal based on the highest international standards of criminal justice,

Pp5 Recalling further the report of the Secretary-General on the establishment of a special tribunal for Lebanon on 15 November 2006 (S/2006/893) reporting on the conclusion of negotiations and consultations that took place between January 2006 and September 2006 at United Nations Headquarters in New York, the Hague, and Beirut between the Legal Counsel of the United Nations and authorized representatives of the Government of Lebanon, and the letter of its President to the Secretary General of 21 November 2006 (S/2006/911) reporting

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that the members of the Security Council welcomed the conclusion of the negotiations and that they were satisfied with the Agreement annexed to the Report,

Pp6 Recalling that, as set out in its letter of 21 November 2006, should voluntary contributions be insufficient for the Tribunal to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of

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financing the Tribunal,

Pp7 Recalling also that the Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon was signed by the Government of Lebanon and the UN respectively on 23 January and 6 February 2007,

Pp8 Referring to the letter of the Prime Minister of Lebanon to the Secretary General of the United Nations (S/2006/281), which recalled that the parliamentary majority has expressed its support for the Tribunal, and asked that his request that the Special Tribunal be put into effect be presented to the Council as a matter of urgency,

Pp9 Mindful of the demand of the Lebanese people that all those responsible for the terrorist bombing that killed former Lebanese Prime Minister Rafiq Hariri and others be identified and brought to justice,

Pp10 Commending the Secretary General for his continuing efforts to proceed, together with the Government of Lebanon, with the final steps for the conclusion of the Agreement as requested in the letter of its President dated 21 November 2006 and referring in this regard to the briefing by the Legal Counsel on 2 May 2007, in which he noted that the establishment of the Tribunal through the Constitutional process is facing serious obstacles, but noting also that all parties concerned reaffirmed their agreement in principle to the establishment of the Tribunal,

Pp11 Commending also the recent efforts of parties in the region to overcome these obstacles,

Pp12 Willing to continue to assist Lebanon in the search for the truth and in holding all those involved in the terrorist attack accountable and reaffirming its determination to support Lebanon in its efforts to bring to justice

perpetrators, organizers and sponsors of this and other assassinations,

Pp13 Reaffirming its determination that this terrorist act and its implications constitute a threat to international peace and security,

¶11. Decides, acting under Chapter VII of the Charter of the United Nations, that:

a) the provisions of the annexed document, including its attachment, on the establishment of a Special Tribunal for Lebanon shall enter into force on June 10, 2007, unless the Government of Lebanon has provided notification under Article 19(1) of the annexed document before that date;

b) if the Secretary General reports that the Headquarters Agreement has not been concluded as envisioned under Article 8 of the annexed document, the location of the seat of the Tribunal shall be determined in consultation with the Government of Lebanon and be subject to the conclusion of a Headquarters Agreement between the United Nations and the State that hosts the Tribunal;

c) if the Secretary-General reports that contributions from the Government of Lebanon are not sufficient to bear the expenses described in Article 5(b) of the annexed document, he may accept or use voluntary contributions from States to cover any shortfall;

¶12. Notes that, pursuant to Article 19(2) of the annexed document, the Special Tribunal shall commence functioning on a date to be determined by the Secretary-General in consultation with the Government of Lebanon, taking into account the progress of the work of the International Independent Investigation Commission;

¶13. Requests the Secretary General, in coordination, when appropriate, with the Government of Lebanon, to undertake the steps and measures necessary to establish the Special Tribunal in a timely manner and to report to the Council within 90 days and thereafter periodically on the implementation of this resolution;

¶14. Decides to remain actively seized of the matter.
KHALILZAD